

Message Text

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PAGE 01 STATE 180945

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C O N F I D E N T I A L STATE 180945

PASS AMBASSADOR SCHAUFLE

E.O. 11652:GDS

TAGS: OTRA (AMB. WM E. SCHAUFLE), UN, NL

SUBJECT: SCHAUFLE CONSULTATIONS ON UN VOTING PROCEDURES

REF: HAGUE 3980

1. IN THE EVENT AMB SCHAUFLE'S CURRENT CONSULTATIONS
EMBRACE UN VOTING PROCEDURES, INCLUDING CONSENSUS,
SUGGEST FOLLOWING ELEMENTS OF USG POSITION BE DRAWN UPON
AS APPROPRIATE.

2. UN CHARTER, RULES OF PROCEDURE AND PREDOMINANT PRE-
CEDENT CONTEMPLATE THAT DECISIONS OF UN ORGANS ARE TO BE
REACHED BY VOTE. GENERALLY SPEAKING, VOTING AS MEANS OF
UN DECISION-MAKING FURTHERS USG AND WESTERN INTERESTS,
PARTICULARLY IN SECURITY COUNCIL WHERE VETO OBTAINS.

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PAGE 02 STATE 180945

WHERE THERE ARE SUBSTANTIAL DIFFERENCES OF VIEW ON A

RESOLUTION IN GA, SC OR OTHER ORGANS, THE ISSUES
NORMALLY SHOULD BE DEALT WITH BY VOTE.

3. AT SAME TIME, PROCEDURE OF DECISION BY CONSENSUS
WHICH HAS EVOLVED IN UN AND OTHER INTERNATIONAL ORGANIZA-
TIONS, PARTICULARLY IN LAST DECADE, CAN HAVE CONSTRUCTIVE
USES. IN SC, IT MAY PERMIT ADOPTION OF RESOLUTIONS

WITHOUT ABSTENTIONS OR NEGATIVE VOTES FOR WHICH CERTAIN
MEMBERS MIGHT NOT WISH EXPRESSLY TO VOTE AFFIRMATIVELY.
IT PERMITS SECONDARY RESERVATIONS TO BE SUBSUMED IN
APPEARANCE OF UNANIMITY. IN GA, SAME RESULT MAY BE
ACHIEVED. MOREOVER, ON GA RESOLUTIONS WHICH PURPORT
TO BE DECLARATORY OF WHAT INTERNATIONAL LAW IS, AGREE-
MENT THAT SUCH RESOLUTIONS CAN BE ADOPTED ONLY UNANIMOUSLY
OR BY CONSENSUS HAS HAD HAPPY EFFECT OF EXTENDING U.S.
AND WESTERN INFLUENCE, BY ENABLING US TO ARGUE THAT,
IF USG AND OTHER WESTERN STATES DO NOT SUPPORT THE
RESOLUTION, IT CANNOT BE AN ACCURATE OR EFFECTIVE
STATEMENT OF INTERNATIONAL LAW. USDEL USED THIS
ARGUMENT WITH EFFECT IN NEGOTIATIONS OVER FRIENDLY
RELATIONS DECLARATION AND DEFINITION OF AGGRESSION.

4. HOWEVER, WESTERN INTERESTS ARE NOT SERVED BY
APPARENT ACQUIESCENCE, OF WHATEVER NATURE, IN RESOLUTIONS
WHICH ARE SERIOUSLY OPPOSED ON THE MERITS, ESPECIALLY
IF THERE HAS NOT BEEN OPPORTUNITY TO MODIFY OR VOTE
AGAINST OBJECTIONABLE PARAS. WHERE A STATE HAS
SERIOUS OBJECTIONS TO ELEMENTS OF A RESOLUTION, IN
OUR VIEW IT IS, GENERALLY SPEAKING, PREFERABLE THAT
IT VOTE AGAINST OR IN APPROPRIATE CIRCUMSTANCES
ABSTAIN UPON IT, RATHER THAN ACQUIESCING IN ADOPTION
BY CONSENSUS. GENERALLY THIS APPLIES EVEN WHERE THERE IS
ADOPTION BY CONSENSUS COUPLED WITH STATEMENTS OF
INTERPRETATION OR RESERVATION. WE SEE THREE MAIN
DRAWBACKS TO ADOPTION BY CONSENSUS WHERE IN FACT THE
RESOLUTION IS OPPOSED ON ITS MERITS. FIRST, THE
POSITION ON THE SUBSTANCE OF QUESTIONS AT ISSUE OF A
MEMBER THAT ACTUALLY OPPOSES THE RESOLUTION BUT
ACCEDES TO ADOPTION BY CONSENSUS (EVEN WITH RESERVA-
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PAGE 03 STATE 180945

TIONS) IS WEAKER THAN IF THAT MEMBER HAD VOTED AGAINST
(OR EVEN ABSTAINED ON) THAT RESOLUTION. THE MAJORITY
FAVORING THE RESOLUTION ADOPTED BY CONSENSUS WILL
WIELD THE UNANIMOUSLY ADOPTED RESOLUTION TO ATTACK
FURTHER POSITIONS NOT IN ACCORD WITH IT, DESPITE ANY
RESERVATIONS (AS THE 57TH SESSION OF ECOSOC DEMONSTRATES
IN RESPECT OF RESOLUTIONS OF SIXTH SPECIAL SESSION).
SECOND, IF, E.G., A RESOLUTION CAN BE ADOPTED BY

"CONSENSUS" WHICH IN FACT THE USG OPPOSES, THE EXTENDED INFLUENCE ACCORDED IT BY THE PROCEDURE OF CONSENSUS IN ADOPTING LAW-DECLARATORY RESOLUTIONS IS LOST. WORSE STILL, THE WAY IS PAVED FOR ADOPTION OF RESOLUTIONS THAT PURPORT TO BE DECLARATORY OF INTERNATIONAL LAW BY A

CONSENSUS WHICH IN FACT THE USG (OR OTHER WESTERN MEMBERS) OPPOSE. THIRD, ADOPTION OF RESOLUTIONS BY CONSENSUS WHOSE SUBSTANCE ACTUALLY IS UNACCEPTABLE DEBASES VALUE OF UN RESOLUTIONS AND LEADS TO CONFUSION AND RECRIMINATION.

5. ACCORDINGLY, U.S. NEGATIVE VOTE AT 57TH SESSION OF ECOSOC ON OMNIBUS RESOLUTION WAS A HEALTHY STEP AWAY FROM FALSE CONSENSUS TO A TRUER MIRRORING OF INTERESTS. AS AMB FERGUSON STATED, OMNIBUS RESOLUTION TREATED RESOLUTIONS OF SIXTH SPECIAL SESSION AS REFLECTING A TRUE CONSENSUS, WHICH IS NOT THE FACT, AND TOOK NO ACCOUNT OF U.S. AND OTHER RESERVATIONS. KISSINGER

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